

## REMARKS

Claims 5-12 and 14-23 are canceled. Claims 1 and 24 have been amended. Claims 1-4, 13 and 24 remain in the application. Support for the amendments to the claims is identified herein below. No new matter has been added. This application has been carefully considered in connection with the Examiner's Action. Reconsideration, withdrawal of the final action, and allowance of the application, is respectfully requested.

### **Rejection under 35 U.S.C. §103**

Claim 1 recites an interconnect in a series of interconnects of a garment, the interconnect comprising:

- a first portion including a magnet with a first magnetic direction and means for forming an electrical connection; and

- a second portion comprising means for forming an electrical connection when coupled with the first portion,

- wherein the first and second portions form a mechanical connection and an electrical connection when connected, the garment further including:

- a sensor for sensing a coupling of the interconnect in the series of interconnects, wherein the sensor senses a current flow through the electrical connection of the interconnect; and

- an attachable device, wherein the attachable device comprises a heating device adapted to be incrementally controlled to increase or decrease heat produced by the heating device in response to a number of coupled or uncoupled individual interconnects in the series of interconnects sensed by the sensor.

Support for the amendments to claim 1 (as well as claim 24), can be found in the specification at least on page 8, lines 1-5, and FIG. 9.

Claims 1-4, 13 and 24 stand rejected under 35 U.S.C. §103(a) as being

unpatentable over Kaario (6563424) in view of Schmidt (5954520). With respect to claim 1, Applicant respectfully traverses this rejection on the grounds that these references are defective in establishing a prima facie case of obviousness.

As the PTO recognizes in MPEP § 2142:

*... The examiner bears the initial burden of factually supporting any prima facie conclusion of obviousness. If the examiner does not produce a prima facie case, the applicant is under no obligation to submit evidence of nonobviousness...*

It is submitted that, in the present case, the examiner has not factually supported a prima facie case of obviousness for at least the following reason.

**Even When Combined, the References Do Not Teach the Claimed Subject Matter**

The Kaario and Schmidt patents cannot be applied to reject claim 1 under 35 U.S.C. § 103 which provides that:

*A patent may not be obtained ... if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains ... (Emphasis added)*

Thus, when evaluating a claim for determining obviousness, all limitations of the claim must be evaluated. However, since neither Kaario nor Schmidt teaches "...an interconnect in a series of interconnects of a garment ... including a sensor for *sensing* ... a *current flow* through the electrical connection of the interconnect; and an attachable ... heating device adapted to be *incrementally* controlled to *increase or decrease heat* produced by the heating device in response to a number of coupled or uncoupled *individual* interconnects ... sensed by the sensor" as is claimed in claim 1, it is impossible to render the subject matter of claim 1 as a whole obvious, and the explicit

terms of the statute cannot be met.

Thus, the examiner's burden of factually supporting a *prima facie* case of obviousness has clearly not been met, and the rejection under 35 U.S.C. §103 should be withdrawn. Accordingly, claim 1 is allowable and an early formal notice thereof is requested. Dependent claims 2-4 and 13 depend from and further limit independent claim 1 and therefore are allowable as well.

By this amendment, claim 24 has been amended in a similar manner with respect to the amendment to claim 1. Claim 24 is believed allowable over the Kaario and Schmidt references for similar reasons as stated herein above with respect to overcoming the rejection of claim 1. Accordingly, claim 24 is believed allowable and the rejection thereof should be withdrawn.

Accordingly, the 35 U.S.C. § 103(a) rejection thereof has now been overcome.

Claims 14 -19 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kaario (6563424) in view of A.F.Van Valer (3431428). By this amendment, claims 14 – 19 have been canceled, thus rendering the rejection thereof now moot.

Note that Claims 5-12 and 20-23, previously withdrawn from consideration as being directed to non-elected claims, have been canceled herein.

### **Conclusion**

Except as indicated herein, the claims were not amended in order to address issues of patentability and Applicants respectfully reserve all rights they may have under the Doctrine of Equivalents. Applicants furthermore reserve their right to reintroduce subject matter deleted herein at a later time during the prosecution of this application or a continuation application.

It is clear from all of the foregoing that independent claims 1 and 24 are in condition for allowance. Dependent claims 2-4 and 13 depend from and further limit independent claim 1 and therefore are allowable as well.

The amendments herein are fully supported by the original specification and drawings as discussed herein; therefore, no new matter is introduced. Issuance of an early formal notice of allowance of claims 1-4, 13 and 24 is requested.

Respectfully submitted,



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